

REMARKS

Entry of this Amendment is proper under 37 CFR §1.116, since no new claims or issues are presented and the accompanying Declaration Under 37 CFR §1.131 swears behind the primary reference of the rejection currently of record.

Claims 1-21 and 24-33, all of the claims presently pending in the application, stand rejected on prior art grounds.

It is noted that Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1, 3-8, 10-14, 16, 18-21, 24, and 26-31 stand rejected under 35 USC §102(e) as anticipated by US Patent Publication US20020091825 to Shuster. Claims 2, 9, 15, 17, and 25 stand rejected under 35 USC §103(a) as unpatentable over Shuster, further in view of US Patent 6,598,071 to Hayashi et al. Claims 32 and 33 stand rejected under 35 USC §103(a) as unpatentable over Shuster, further in view of Applicants' Admitted Prior Art.

These rejection based on Shuster are respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

Applicants' invention, as disclosed and claimed in independent claim 1, is directed to a method in a computer network of controlling an admittance of requests to at least one processing component. The amount of network traffic is evaluated to determine if the amount exceeds a preset threshold.

If the preset threshold is exceeded, the content of each request is differentiated in to types and the request is admitted only if the differentiated type meets at least one criterion for admission.

The conventional method discussed on pages 1-4 of the specification makes no differentiation of requests based upon a content of the request. Moreover, the current S/N 09/916,513
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content throttler presented as prior art does not first evaluate network traffic to determine whether the content-based throttling should be invoked.

II. THE PRIOR ART REJECTION

The Examiner alleges that Shuster anticipates the present invention as defined by claims 1, 3-8, 10-14, 16, 18-21, 24, and 26-31 and, when modified by at least one of Hayashi or AAPA, renders obvious claims 2, 9, 15, 17, 25, 32, and 33.

However, the prior art evaluation is rendered moot by the disqualification of Shuster as a prior art reference, as accomplished by the concurrently-filed Declaration Under 37 CFR §1.131.

III. FORMAL MATTERS AND CONCLUSION

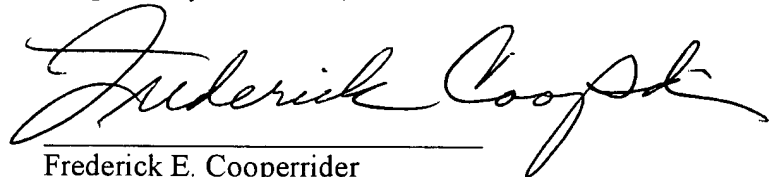
In view of the foregoing, Applicant submits that claims 1-21 and 24-33, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

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